

of gold, silver and aluminum over at least some of the interior surface of the furnace, and
subjecting the tool steel workpiece to heat treatment by exposing said tool steel
workpiece to infrared heat energy from an infrared heat energy source.

REMARKS

We have carefully noted the Examiner's comments in the June 28, 1999, Advisory Action and by this Supplemental Amendment we have made a strenuous effort to bring this application to allowance in an efficient manner.

With particular refer^{ence} to paragraph "4." of the June 28, 1999, Advisory Action and the Examiner's hand printed comments we comment as follows.

We have construed the Examiner's continuing rejection of claims 4, 15, 16 and 17 as being based on the proposition that "blocks" was not implicitly or explicitly disclosed in the application, the Examiner basing his position on the proposition that "no convincing showing has been made."

We respectfully point out that the declarant, Brada, is an engineer with a master's degree in Metallurgical and Materials Engineering and eight years of concentrated and highly relevant experience in the field to which the application is directed, and is currently the Chief Metallurgist of the assignee which is a recognized leader worldwide in the field to which the application is directed. No contention has been made that the declarant is not a man skilled in the art and so we assume it is conceded that he is a man skilled in the art.

When a man skilled in the art states an opinion, and, in very specific terms, the reasons upon which that opinion is based, it is not appropriate to reject that opinion on the basis of a general statement such as "no convincing showing has been made". This principle has been set forth very clearly in the Manual of Patent Examining Procedure, Section 716.01, where it is stated on page 700-40, Rev. 1. Sept. 1995:

... Where the (affidavit) evidence is insufficient to overcome the rejection, the examiner must specifically explain why the evidence is insufficient. General statements such as "the declaration lacks technical validity" or "the evidence is not commensurate with the scope of the claims" without an explanation supporting such findings are insufficient."
(underlining ours)

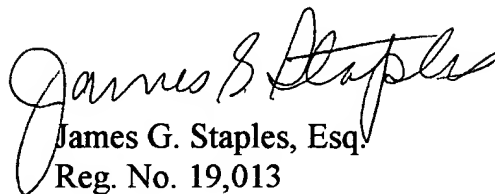
The statement "no convincing showing has been made" is even more general in nature than the above quoted examples of insufficient grounds for rejection and, we respectfully submit, cannot stand as a basis for rejection of claims 4, 15, 16 and 17.

Should the Examiner persist in his rejection he is requested to state with specificity the technical reasons why the declaration is "not convincing", which reasons should (i) address the specific basis on which the opinion evidence was based and (ii) furnish authority of sufficient stature to negate the expertise of Mr. Brada and the statements in the Tool Steels manual.

We are expediting this Supplemental Amendment to the Examiner's desk to the end that, should any matter, in the opinion of the Examiner, remain outstanding following

submission of this Supplemental Amendment there will be sufficient time to address it in the initial statutory period for response.

Respectfully submitted,


James G. Staples, Esq.
Reg. No. 19,013

A. Finkl & Sons Co.
2011 North Southport Avenue
Chicago, IL 60614
(773) 975-2235
(773) 975-2636 (fax)